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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

CR-S-04-0477 JCM (PAL)

Plaintiff,

Date: N/A

v.

Time: N/A

JACQUAN LEE RICHARD,

Defendants.

ORDER

Presently before the court is defendant's objection (#31) to Magistrate Judge Leen's report of findings and recommendation (#30) denying defendant's motion to suppress evidence (#17). The government filed a response (#32) to the defendant's objections.

Magistrate Judge Leen determined that defendant Richard had not met his burden of establishing standing or capacity to claim the protection of the Fourth Amendment for the search of another person's vehicle nor did he have an expectation of privacy that society accepts as objectively reasonable since he was merely a passenger in the car. Additionally, she concluded that Richard's statement to a detective two days after his arrest was not tainted by any violation of Richard's Fourth Amendment rights and therefore, suppression was not required under the fruit of the poisonous tree doctrine.

Under Local Rule IB 1-4 and 28 U.S.C. § 636(b)(1)(B), a magistrate judge shall file findings and recommendations for disposition by the district judge. The district judge "shall

1 make a de novo determination of those portions of the report or specified proposed findings
2 or recommendations to which objection is made [and] may accept, reject, or modify, in whole
3 or in part, the findings or recommendations. . . ." 28 U.S.C. § 636(b)(1).

4 Having reviewed defendant's objections, plaintiff's response, and the magistrate
5 judge's findings and recommendation,

6 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge
7 Leen's findings and recommendation (#30) be, and the same hereby are, ACCEPTED and
8 AFFIRMED in its entirety.

9 DATED Nov 4, 2005.

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13 UNITED STATES DISTRICT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of November, 2005, I did cause to be served upon the individuals listed below at the addresses listed below a copy of the foregoing order by placing a copy thereof in the United States mails first-class postage prepaid or in the attorney's distribution box located in the U.S. court clerk's office.

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